

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2017-280-E - ORDER NO. 2021-377

JUNE 2, 2021

IN RE: Application of Duke Energy Carolinas, LLC,	)	ORDER GRANTING
for Approval of the Transfer and Sale of	)	APPROVAL FOR THE
Property Located in Franklin, North Carolina	)	TRANSFER AND SALE
	)	OF PROPERTY

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (Commission) on the April 14, 2021 application of Duke Energy Carolinas, LLC (DEC) seeking Commission approval to sell real property located in Franklin, North Carolina. DEC asserts the property is vacant, consists of 6.56 acres, and is part of a larger tract of land the Commission previously approved for sale. DEC has a contract with a corporation to sell the land for \$2,015,000.

**II. FACTS AND PROCEDURAL HISTORY**

DEC filed its application with the Commission on April 14, 2021, pursuant to section 58-27-1300 of the South Carolina Code of Laws (2015), seeking the Commission's approval of the proposed sale. Correspondence dated April 14, 2021, from counsel for DEC indicates the Commission previously authorized the sale of a larger portion of property, including the real property that is the subject of this docket, in Order Number 2017-638. The previously approved sale "was never consummated and, after remarketing

the property, DEC has identified a new buyer for a portion of the property.” (Robinson Gray letter of April 14, 2021). The application also contained a plat of the property, correspondence from a real estate broker regarding the value of the property, and a certification of the accuracy of the application from the DEC Real Estate Portfolio Strategy Manager.

On May 3, 2021, the Office of Regulatory Staff (ORS) contacted the Commission to request the Commission carry over the docket, which was at the time scheduled for consideration on May 5, 2021, to allow ORS time to complete its review of the proposed sale. On May 5, 2021, the Commission acted to carry over the matter and no vote was taken. Samuel Wellborn filed a Notice of Appearance on May 5, 2021, to represent DEC.

In correspondence filed on May 12, 2021, ORS notified the Commission it had reviewed the application of DEC to sell the Franklin, North Carolina property as requested in its application, the appraisals, the requirements of the Code, and DEC’s prior filings, and did not object to the Commission’s approval of the application.

On May 19, 2021, the Commission issued a Directive approving the transfer and sale of the property in Franklin, North Carolina by DEC in this docket.

### **III. EVIDENCE OF RECORD**

In Order Number 2017-638, dated October 6, 2017, the Commission approved DEC’s request to sell 9.061 acres of real property on Siler Road in Franklin, North Carolina, for the price of \$3,600,000. The sale, however, did not occur. Documents filed with the application by DEC indicate DEC originally acquired the land for the purpose of building a substation. “The larger property was acquired by DEC through various

transactions between 1984 and 2003 as part of a tract that was intended to serve as the site for a substation for a residential neighborhood. However, the substation was able to be developed on a portion of the original tract, rendering the [p]roperty as surplus.” (Application, page 3). After the original approved sale did not take place, DEC remarketed the property and found another buyer for a portion (6.56 acres) of the larger tract. DEC’s application states: “DEC has entered into a contract with Hendon Properties, LLC to sell the property [consisting of 6.56 acres] for \$2,015,000 . . . [and] the [p]roperty received a Broker Opinion of Value valuing the property at \$1,974,682. . .”

As part of its application, DEC provided an analysis of the value of the property from a local real estate broker regarding comparable properties sold in the area, as well as the reason the contract with Hendon is for an amount less than the asking price. The broker noted the 6.5 acre property was originally listed for sale at \$2,620,861, but the potential buyer discovered the need to incur significant expenses to use the property. The broker concluded: “Taking these expenses into account, the asking Price of \$2,620,861 less these unknown expenses at the time the property was appraised of (\$610,000.00[] and \$310,000.00) would reduce the actual appraised value of the 6.55 acre site from \$2,584,682 indicated by the comp[arable properties] to \$1,974,682[] which compares favorably to the negotiated sales price for the site of \$2,015,000.00.” (March 4, 2021 correspondence from Robin Boylan, page 2).

ORS submitted a review of the application and notified the Commission it did not object to DEC’s request for approval to sell the property.

#### IV. APPLICABLE LAW

The Commission has the authority to regulate and supervise the sale of utility property by electric utilities:

The Commission, as provided for by the South Carolina Constitution and as vested with power and jurisdiction by the South Carolina General Assembly, performs the following general functions:

A. Regulation and supervision of privately-owned electric utilities as to rates, charges, services, facilities, practices, accounting procedures, the purchase, sale or lease of utility property and the issuance of securities . . .

S.C. Code of State Regulations 103-810 (2012).

According to section 58-27-1330 of the South Carolina Code of Laws (2015), an electrical utility may sell its property, valued at one million dollars or less, without Commission approval. However, if the property's fair market value is more than one million dollars, the utility must first obtain Commission approval.

No electrical utility, without the approval of the commission and compliance with all other existing requirements of the laws of the State in relation thereto, may sell . . . its utility property . . . except that any electrical utility which has utility property, the fair market value of which is one million dollars or less, may sell, assign, transfer, lease, consolidate, or merge this property without prior approval of the commission. The commission may, at its discretion, hold a hearing on the request of an electrical utility to sell, assign, transfer, lease, consolidate, or merge its utility property, powers, franchises, or privileges, or any of them. An electric utility seeking approval of a transfer under this provision shall serve a copy of the application on the Office of Regulatory Staff. For purposes of this section, "utility property" shall include property used and useful to provide customers with electric service and which has been properly included in the electric utility's rate base, including construction work in progress or property held to serve future customers. Utility property that has been transferred to nonutility accounts must continue to be treated as utility property under this provision for five years following the

transfer.

S.C. Code Ann. § 58-27-1330.

**V. FINDINGS OF FACT**

1. The Commission has the authority to regulate and supervise the sale of utility property by an electric utility, and DEC appropriately sought Commission approval of the proposed sale of the property that is the subject of this request.

2. The Commission previously approved a tract of land for sale that encompasses the 6.5 acres currently for sale by DEC on October 6, 2017 in Order Number 2017-638.

3. The 6.5 acre property is not required for DEC's current utility operations, as the purpose for which it was purchased no longer exists.

4. DEC has entered into a contract with a Georgia corporation, Hendon Properties, LLC, to sell the property for \$2,015,000. We find the sale price reasonable based on the broker analysis set forth in the application.

5. DEC notified ORS "the original cost of the [p]roperty being sold will be credited as a reduction of the amount carried upon the books of DEC under Account 101, "Electric Plant in Service.'" Furthermore, "any gain from this transaction related to the land will be recorded in Account 421.1000 entitled 'Gain on Disposition of Property[,] and any loss realized from the sale of the land will be recorded in Account 421.2000 entitled 'Loss on Disposition of Property.'" (ORS correspondence dated May 12, 2021, page 2).

6. ORS reviewed the sale and has no objection.

## **VI. CONCLUSIONS OF LAW**

1. The Commission has the power and jurisdiction to regulate and supervise the sale of utility property by DEC pursuant to South Carolina Code of State Regulations 103-810 (2012).

2. The Commission concludes the sale as set forth in this application is reasonable pursuant to section 58-27-1330 of the South Carolina Code of Laws (2015).

## **VII. ORDERING PROVISIONS**

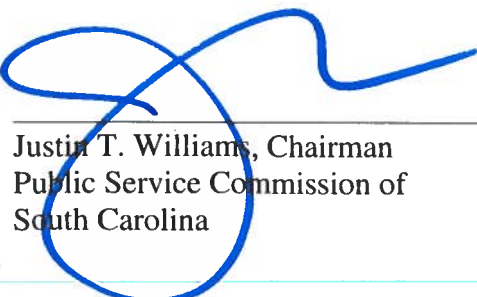
### **IT IS THEREFORE ORDERED:**

1. The Application of Duke Energy Carolinas, LLC, seeking Commission approval of the transfer and sale of property located in Franklin, North Carolina, as set forth in this docket, is granted.

2. DEC shall account for the sale as set forth in ORS correspondence of May 12, 2021.

### **BY ORDER OF THE COMMISSION:**



  
Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina

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